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2
3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

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6 AIMEE LYNN O'NEIL,

7 Plaintiff,

8 v.

9 CHARLENE O'NEIL,
10 GLORIA MAZZOLI

11 Defendants.
12

Case No. 2:20-cv-652-JAD-BNW

**ORDER AND
REPORT AND RECOMMENDATION**

13 Presently before the court is pro se Plaintiff Aimee O'Neil's application to proceed *in*
14 *forma pauperis* and her complaint filed on April 7, 2020. ECF No. 1. Plaintiff filed a second such
15 motion on April 27, 2020. ECF No. 14. In addition, on May 5, 2020, she filed a motion to make
16 payments in lieu of appearing in forma pauperis.¹ ECF No. 18.

17 Plaintiff submitted the declaration required by 28 U.S.C. § 1915(a) showing an inability to
18 prepay fees and costs or give security for them. ECF No. 1. Accordingly, Plaintiff's request to
19 proceed *in forma pauperis* will be granted. Given her first application to proceed *in forma*
20 *pauperis* (ECF No. 1) is granted, her second application (ECF No. 14) and her motion to make
21 payments (ECF No. 18) are denied a moot. The Court will next screen the complaint. ECF No. 1-
22 1.

23 **I. SCREENING OF COMPLAINT AND MOTIONS TO AMEND COMPLAINT**

24 **A. BACKGROUND**
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28 ¹ It appears Plaintiff believed that the court could rule on her claims more quickly if she were to
pay the filing fee rather than proceed *in forma pauperis*.

1 Plaintiff's original complaint is a 35-page document recounting the many ways she
2 believes her mother, defendant Charlene O'Neil, interfered with her ability to earn a living, her
3 rights to privacy, as well as many other rights under the constitution. For example, Plaintiff
4 claims her mother plotted to have her killed resulting in her needing to quit her job, had her phone
5 tapped, and had Plaintiff's co-workers follow her, harass her, stalk her, and intimidate her. ECF
6 No. 1-1 at 9. Plaintiff also explains that, based on the fact her mother had her phone tapped, all
7 her co-workers and customers knew about the text messages on her phone. *Id.* at 10.

8 Given the number of threats, Plaintiff explains that the Colorado Department of Parole
9 deemed this conduct to be an immediate threat "and made [her] quit [her] job and pack all of her
10 possessions and had a[n] emergency parole meeting to discuss a safety plan." *Id.* at 15. But her
11 mother's behavior continued at her new employment, and now her mother somehow directed
12 male customers to sexually harass her. *Id.* at 16. Plaintiff explains she has had to contact the
13 police because her mother was having her followed and the Department of Parole "ordered to
14 obtain a restraining order." *Id.* at 20.

15 Immediately after Plaintiff obtained the restraining order, her mother had men sexually
16 harass her. *Id.* at 21. Plaintiff explains her mother also interfered with her relationship with Mark
17 Morrison, even though the Department of Parole "made it clear that they approved of the
18 relationship" and that her mother "needed to stop interfering in her daughter's personal life." *Id.*

19 Plaintiff alleges that Gloria Mazzoli, the other defendant, has been helping her mother in
20 her acts of interference and intimidation. *Id.* at 35.

21 Plaintiff also provides some background into her relationship with her mother. Plaintiff
22 explains her mother "locked [her] in her bedroom for days at a time with only a bucket to
23 defecate and urinate in." *Id.* at 30. Plaintiff also explains that a man was found stabbed to death in
24 the kitchen of the house she grew up in and that she was forced to watch as her father dug a
25 shallow grave for him. *Id.* at 31. Later, this man's body was dug up and placed in her uncle's
26 well. She also claims that her mother forced her to pose for pornographic pictures as a child. *Id.* at
27 32.

1 Plaintiff filed two motions for leave to file an amended complaint. *See* ECF Nos. 19, 21.
 2 The most recent such motion was filed on June 1, 2020. ECF No. 21-1. This proposed amended
 3 complaint is eleven pages long and is, in essence, a summarized version of the original complaint.
 4 *Id.*

5 **B. ANALYSIS**

6 In screening a complaint, a court must identify cognizable claims and dismiss claims that
 7 are frivolous, malicious, fail to state a claim on which relief may be granted, or seek monetary
 8 relief from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2). A complaint is
 9 frivolous if it contains “claims whose factual contentions are clearly baseless,” such as “claims
 10 describing fantastic or delusional scenarios.” *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989).
 11 Dismissal for failure to state a claim under § 1915(e)(2) incorporates the standard for failure to
 12 state a claim under Federal Rule of Civil Procedure 12(b)(6). *Watison v. Carter*, 668 F.3d 1108,
 13 1112 (9th Cir. 2012). To survive § 1915 review, a complaint must “contain sufficient factual
 14 matter, accepted as true, to state a claim to relief that is plausible on its face.” *See Ashcroft v.*
 15 *Iqbal*, 556 U.S. 662, 678 (2009). The court liberally construes pro se complaints and may only
 16 dismiss them “if it appears beyond doubt that the plaintiff can prove no set of facts in support of
 17 his claim which would entitle him to relief.” *Nordstrom v. Ryan*, 762 F.3d 903, 908 (9th Cir.
 18 2014) (quoting *Iqbal*, 556 U.S. at 678).

19 Even liberally construing Plaintiff’s complaint, the court finds that her factual allegations
 20 describe fantastic and delusional scenarios and do not state a claim upon which relief can be
 21 granted. Additionally, the docket is replete with additional “notices” Plaintiff filed that purport to
 22 supplement the claims in her complaint. *See, e.g.*, ECF No. 3 (“Notice of Sexual Harassment”
 23 where Plaintiff explains her mother recently had a man sexually harass her and that she had to file
 24 a claim with the Federal Trade Commission based on her phone being tapped); ECF No. 8
 25 (“Notice of Retaliation” explaining how defendants continue to engage in the same conduct
 26 alleged in the complaint); ECF No. 10 (“Notice of Harassment” explaining one or both of the
 27 defendants had an RFID chip placed on her leg); ECF Nos. 15-17 (other similar notices). Given
 28

1 that Plaintiff's complaint does not set forth a plausible claim, it is recommended that the
2 complaint be dismissed.

3 The Court also reviewed Plaintiff's two motions to amend her complaint. Even construing
4 these complaints liberally, neither states a claim upon which relief can be based. Accordingly, the
5 Court recommends that these motions (ECF Nos. 19, 21) be denied, as amendment would be
6 futile. Furthermore, given that Plaintiff has now unsuccessfully attempted to state a claim upon
7 which relief can be based three times and appears to be delusional, the Court recommends that
8 Plaintiff's case be dismissed. *See Lopez v. Smith*, 203 F.3d 1122, 1126 (9th Cir. 2000) (stating
9 that a district court is not required to provide leave to amend a complaint if the complaint could
10 not possibly be cured by the allegation of other facts).

11 **II. OTHER MOTIONS**

12 Plaintiff also filed a motion for summary judgment (ECF No. 4), a motion for a
13 restraining order (ECF No. 5), and motions for orders (ECF Nos. 7 and 9) to have the RFID in her
14 leg removed. Given the Court is recommending that this case be dismissed, the Court also
15 recommends these motions be denied as moot.

16 **III. CONCLUSION**

17 IT IS ORDERED Plaintiff's request to proceed in forma pauperis (ECF No. 1) is granted.

18 IT IS FURTHER ORDERED that ECF Nos. 14 and 18 are DENIED as moot.

19 IT IS RECOMMENDED that Plaintiff's complaint (ECF No. 1-1) be DISMISSED.

20 IT IS FURTHER RECOMMENDED that Plaintiff's motions for leave to amend her
21 complaint (ECF Nos. 19 and 21) be DENIED.

22 IT IS FURTHER RECOMMENDED that Plaintiff's Motion for Summary Judgment (ECF
23 No. 4) be DENIED as moot.

24 IT IS FURTHER RECOMMENDED that Plaintiff's Motion for Restraining Order (ECF
25 No. 5) be DENIED as moot.

26 IT IS FURTHER RECOMMENDED that Plaintiff's Motions for Order (to have RFID
27 device removed from leg) (ECF Nos. 7 and 9) be DENIED as moot.

1 IT IS FURTHER RECOMMENDED that Plaintiff's Motions for Default Judgment (ECF
2 Nos. 11 and 13) be DENIED as moot.

3 IT IS FURTHER RECOMMENDED that Plaintiff's case be DISMISSED.

4 **IV. NOTICE**

5 This report and recommendation is submitted to the United States district judge assigned
6 to this case under 28 U.S.C. § 636(b)(1). A party who objects to this report and recommendation
7 may file a written objection supported by points and authorities within fourteen days of being
8 served with this report and recommendation. Local Rule IB 3-2(a). Failure to file a timely
9 objection may waive the right to appeal the district court's order. *Martinez v. Ylst*, 951 F.2d 1153,
10 1157 (9th Cir. 1991).

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12 DATED: August 14, 2020

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15 BREND A WEKSLER
16 UNITED STATES MAGISTRATE JUDGE
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